



U.S. Department of Homeland Security

STATEMENT

OF

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U.S. DEPARTMENT OF HOMELAND SECURITY**

REGARDING A HEARING ON

**“VISA REVOCATION:
CATCHING THE TERRORISTS AMONG US”**

**BEFORE THE
HOUSE SUBCOMMITTEE ON NATIONAL SECURITY,
EMERGING THREATS, AND INTERNATIONAL RELATIONS**

**June 18, 2003
10:00 A.M.
2154 Room Rayburn House Office Building**

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE, thank you for the opportunity today to update you on the Bureau of Immigration and Customs Enforcement's (BICE) efforts to combat terrorism and to explain our role in the visa revocation process. No mission of the U.S. government is more important than protecting the Nation and the American people against future terrorist attacks. That mission is the paramount responsibility of the newly created Department of Homeland Security (DHS). The work of BICE is an indispensable part of fulfilling this mission.

Knowing who has entered and departed from our country in real time is an important element in enforcing our laws. Equally as important is knowing in real time when Department of State (DOS) or another government agency has developed information, like a visa revocation or other information about an individual who has entered but not departed. Since September 11, the law enforcement community has risen to the challenge of increasing communications and following through in national security information gathering, intelligence sharing, and investigations. I am pleased to be here today to discuss BICE's role in the investigations of all referred visa revocation matters.

INTRODUCTION

As the tragic events of September 11, 2001 illustrate, those intent on destroying America took advantage of our generosity and openness by exploiting any mechanism to gain access to the United States. The nineteen hijackers used our immigration system to enter this country and carry out the deadly attacks of September 11th. These horrific events highlighted vulnerabilities in our immigration system. Also, our experience with prior

terrorism cases showed that operatives have used fraudulent identities, visas, and travel documents to gain access to our country and further their operations. Our country needs an effective immigration enforcement process to ensure that any vulnerabilities in our system cannot be exploited by terrorists and other violent criminals.

OVERVIEW

As this is the first time that BICE has had the opportunity to testify before this Subcommittee, I would like to provide a brief overview of our mission. The Homeland Security Act of 2002 abolished the Immigration and Naturalization Service (INS) and the President's Reorganization Plan established BICE. BICE combines the investigative functions of the INS and the U.S. Customs Service with the Federal Protective Service (FPS). In addition, the President's Plan merged the Air and Marine Interdiction Unit and the legacy INS Detention and Removal Program into BICE. The new agency brings together approximately 14,000 employees, including some 5,500 special agents. This makes BICE the second largest investigative team in Federal law enforcement. Only the Federal Bureau of Investigation (FBI) is larger.

BICE investigates immigration violations, migrant and contraband smuggling, human trafficking, money laundering, trade fraud, and export violations. BICE also manages the investigation of immigration document fraud. Controlling the flow of goods and people within our country, verifying the authenticity of identity and travel documents, and monitoring the legal transfer of funds are functions critical to reducing our vulnerability to terrorist attacks. Meeting BICE's critical responsibilities requires a robust intelligence

capability, an air and marine interdiction capability, and an ability to apprehend, detain, prosecute, and remove illegal aliens. Finally, BICE is charged with protecting more than 8,000 Federal facilities nationwide against terrorism, a responsibility carried out by a component part of the Agency, the FPS.

HISTORY

The subject matter of this hearing is about visa revocation and how notice of such revocations have been handled by INS/BICE. The National Security Unit (NSU) within BICE is responsible for investigating all leads and referrals involving terrorism and national security matters, involving cases where an issued visa has been subsequently revoked.

GENERAL ACCOUNTING REPORT

On May 27, 2003 the General Accounting Office (GAO) presented BICE with its draft report GAO-03-798, entitled *Border Security: New Policies and Procedures Needed to Fill in the Visa Revocation Process*. BICE appreciates the review and comments of the GAO. We agree with the GAO finding that the Secretary of Homeland Security should work with the Secretary of State and Attorney General to strengthen the visa revocation process as an antiterrorism tool and establish specific policies and procedures that ensure timely and direct notification of visa revocations to both the Bureau of Customs and Border Protection (BCBP) and BICE. BICE considers the timely notification of DOS visa revocations to be an important element in protecting the United States against the entry of inadmissible aliens, including possible terrorists. Currently, the State

Department provides BICE information on visa revocations to aid in determining how to proceed on a specific case. The GAO recommendation that is particularly relevant to BICE is the one regarding determining if any persons with revoked visas on terrorism grounds are in the United States and if so whether they pose a security threat. In making these determinations during an NSU investigation, BICE coordinates with BCBP to ensure that it has all appropriate information regarding entries into the US. In addition to working with BCBP, BICE will continue working with BCIS to obtain information on individuals who may have had their underlying petitions revoked. Since DHS now has the lead for setting visa policy, BCBP, BICE and BCIS will work together to develop specific policies addressing the visa revocation process. DHS will work closely with Department of State to implement these policies. We will continue to work internally to increase the timeliness of the information flow among our bureaus.

Pursuant to NSU standard operating policy, visa revocation cases are investigated and coordinated in the same manner as all other types of cases handled by the unit. The NSU has a clearly defined role: to investigate those cases involving aliens who may have entered the country and either had their visa revoked after admission or were admitted despite the revocation of their visa. The NSU receives a number of national security leads and referrals, including visa revocations. The NSU does not discriminate between types of national security referrals. BICE's records indicate that during the time period studied in the report the NSU received information on ten leads involving visa revocations. In all 10 cases the NSU followed standard operating procedure for such referrals. The NSU conducted follow-up investigation in all 10 cases, concluding that

there was insufficient evidence under current civil and criminal immigration law to allow BICE to take action against the visa holders. Contrary to the draft report's findings, BICE always takes actions to investigate cases referred to the NSU and NSU conducted a full investigation of 100% of the referrals received.

As highlighted in Appendix II of the GAO draft report, the different standards of proof required for revocation and removal proceedings pose significant difficulties in investigating and resolving these matters. In this context, it is important to note that the information needed to revoke a visa is not necessarily sufficient for BICE to initiate removal proceedings against an alien who has been admitted to the United States and is otherwise maintaining his or her status. When an alien is admitted to the U.S., certain legal rights are attached to the admission. These legal rights require that BICE present clear and convincing evidence to demonstrate that the alien is a national security threat or is removable on other statutory grounds before an Immigration Judge.

Another factor in prosecuting these revocation cases is the current language used on the revocation certificate that provides when an alien has been admitted to the United States, the visa revocation takes effect after the alien departs from the United States.

Consequently, the visa remains valid and the alien maintains lawful status while in the U.S. absent any conduct making him or her subject to removal. We are working with the DOS to determine if a change in this language would improve our ability to remove an alien who has been admitted.

CONCLUSION

Deterring illegal migration and combating immigration-related crime have never been more critical to our national security. The men and women of BICE are tackling this challenging mission with diligence, determined to ensure that no duty is neglected even as they continue to adjust during this time of transition into the new Department. We look forward to working with other DHS components, Department of Justice, and DOS on strengthening the visa revocation process. Thank you. I look forward to your questions.